THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.23548 OF 2007

Dated 6th November, 2007

Between:

M/s Veeramani Biscuit Industries Limited …Petitioner

And

The Assistant Commissioner (CT) and
Two others …Respondents

THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.23548 OF 2007

O R D E R (Per the Hon'ble Sri Justice Bilal Nazki):

Heard learned counsel for the parties. With their consent, the writ petition is being disposed of at this stage.

The case of the petitioner is that the tax levied and disputed has already been paid, but the proceedings with regard to penalty have been passed and appeal against the said proceedings has been filed by him before the second respondent. In the meantime, the third respondent has issued distraint order, dated 31-10-2007, in Form-I and the first respondent is insisting for payment of the disputed penalty. Hence, the petitioner seeks to stay the recovery proceedings till the appeal pending before the second respondent is decided.

Since the petitioner has already paid the tax in full, therefore, we feel that the interest of justice would be met if stay of recovery of the disputed penalty is granted pending appeal, subject to deposit of 25% of the disputed penalty by the petitioner within a period of six weeks. Hence, we direct the petitioner to deposit

25% of the disputed penalty within a period of six weeks. For six weeks, there shall be an unconditional stay of recovery of the disputed penalty and the stay shall continue till disposal of the appeal by the second respondent, provided the amount is deposited within six weeks. The deposit of amount shall be without prejudice to the rights

of the petitioner in the appeal. However, if the petitioner has already paid any amount towards the disputed penalty, while calculating the 25% amount, the amount already paid by the petitioner shall be given credit to. The distraint order issued by the third respondent, dated 31-10-2007, shall also stand set aside.

W.P is accordingly disposed of.

_____

Bilal Nazki,J

Dated 6th November, 2007

_____

Ramesh Ranganathan,J

***Note*:** Issue wire at party's cost

vrn